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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

GALA et al

Atty. Ref.: 2752-59

Serial No. 10/074,246

Group:

Filed: February 14, 2002

Examiner:

For: IDENTIFICATION OF NUCLEOTIDE SEQUENCES
SPECIFIC FOR MYCOBACTERIA AND DEVELOPMENT
OF DIFFERENTIAL DIAGNOSIS STRATEGIES FOR
MYCOBACTERIAL SPECIES

* * * * *

April 15, 2002

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

INFORMATION DISCLOSURE STATEMENT

Listed on accompanying Form PTO-1449 are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is not in issue. Applicants have listed publication dates on the attached PTO-1449 based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith. It is further understood that the Examiner will consider information that had been cited by or submitted to the U.S. Patent and Trademark Office in a prior application relied on under 35 U.S.C. § 120. 1138 OG 37, 38 (May 19, 1992).

Applicants have checked the appropriate boxes below.

1. ☒ This Information Disclosure Statement is being filed within three months of the U.S. filing date OR before the mailing date of a first Office Action on the merits. No statement under 37 C.F.R. § 1.97(e) or fee is required. In the event, a first Office Action has been mailed prior to filing of the present Information Disclosure Statement, the Office is requested to treat the present paper s a submission under 37 C.F.R. § 1.97(c) and charge the undersigned's Deposit Account No. 14-1140 for the fee required by 37 C.F.R. § 1.17(p). The present paper is submitted in duplicate for this purpose.

2. ☐ This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance.

a. ☐ I hereby state that each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

b. ☐ I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

- c. ☐ Attached is our Check No. in the amount of \$ in payment of the fee under 37 C.F.R. § 1.17(p).

3. ☐ This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but before payment of the Issue Fee. It is hereby requested that the Information Disclosure Statement be considered. Attached is our Check No. in the amount of \$ in payment of the fee under 37 C.F.R. § 1.17(i).

- a. ☐ I hereby state that each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

- b. ☐ I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

4. ☐ Relevance of the non-English language document(s) is discussed in the present specification.

5. ☒ The document(s) was/were cited in a corresponding foreign application. An English language version of the foreign search report is attached for the Examiner's information.

6. ☐ A concise explanation of the relevance of the non-English language document(s) appears below:

7. ☐ The Examiner's attention is directed to co-pending U.S. Patent Application No. , filed , (copy attached) which is directed to related technical subject matter. The identification of this U.S. Patent Application is not to be construed as a waiver of secrecy as to that application now or upon issuance of the present application as a patent. The

Examiner is respectfully requested to consider the cited application and the art cited therein during examination.

8. ☐ Copies of the documents were cited by or submitted to the Office in Application No. , filed , which is relied upon for an earlier filing date under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).

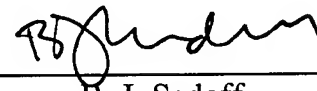
It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and to indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 14-1140 referencing docket number 2752-59.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



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ATTY. DOCKET NO.

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CITATION

2752-59

10/074,246

APPLICANT

APR 15 2002

GALA et al

(Use several sheets if necessary)

FILING DATE

GROUP

February 14, 2002

U.S. PATENT DOCUMENTS

FOREIGN PATENT DOCUMENTS

OTHER DOCUMENTS (including Author, Title, Date, Pertinent pages, etc.)

Coetsier et al, "Duplex PCR for differential identification of *Mycobacterium bovis*, *M. avium*, and *M. avium* subsp. *paratuberculosis* in formalin-fixed paraffin-embedded tissues from cattle", *Journal of Clinical Microbiology*, Vol. 38, No.8, August 2000, pages 3048-3054, XP002172497.

Vannuffel et al, "P34 and F57 based-multiplex PCR assay for discrimination between tuberculous and non-tuberculous mycobacteria," Abstracts of the Interscience Conference on Antimicrobial Agents and, Vol. 38, 1998, page 158, XP001010524, 38th Interscience Conference on Antimicrobial Agents and Chemotherapy; San Diego, CA, Sept. 24-27, 1998.

*Examiner

Date Considered